

VZCZCXYZ0000
RR RUEHWEB

DE RUEHMU #0002/01 0021947
ZNR UUUUU ZZH
R 021947Z JAN 08
FM AMEMBASSY MANAGUA
TO RUEHC/SECSTATE WASHDC 1887
INFO RUEATRS/DEPT OF TREASURY WASHINGTON DC
RUEHZA/WHA CENTRAL AMERICAN COLLECTIVE

UNCLAS MANAGUA 000002

SIPDIS

STATE FOR WHA/CEN, EB/IFD/OIA AND L/CID
STATE FOR WHA/EPSC
STATE PLEASE PASS TO USTR
TREASURY FOR INL AND OWH

SENSITIVE
SIPDIS

E.O. 12958: N/A
TAGS: [EINV](#) [ECON](#) [USTR](#) [KIDE](#) [NU](#)
SUBJECT: NICARAGUAN GOVERNMENT PLEDGES TO PROVIDE MORE INFORMATION
ON PROPERTY CLAIMS IN 2008

REF: A) MANAGUA 2581, B) MANAGUA 2615, C) MANAGUA 2324, D) MANAGUA
2442, E) MANAGUA 2494

SUMMARY

11. (SBU) In a December 21 meeting with the Ambassador, Attorney General Estrada outlined the Government of Nicaragua's (GON) "plan to resolve all property claims by 2011." The Ambassador asked the GON to ensure a fair and transparent process as it seeks to resolve claims, especially in those cases where the Ortega administration is reviewing files accepted by previous governments for ironclad evidence that the claimant once exercised domain over a property and that the GON had expropriated the property. Throughout the meeting, the Ambassador pressed Estrada for more communication outside of the monthly Working Group meeting as the best way to renew cooperation on case resolution. While Attorney General said his office will remain the only channel of communication between the Embassy and GON, but he did promise to provide the Embassy a list of U.S. citizen claims that the GON will prioritize in 2008. The Ambassador and Estrada agreed to meet in early 2008 to discuss the GON's progress in resolving Embassy registered claims during the 2007-08 waiver year.

GON AMENDS TIMETABLE TO RESOLVE OUTSTANDING CLAIMS

12. (SBU) In a December 21 meeting with the Ambassador, Attorney General ("Procurador") Hernan Estrada outlined the Government of Nicaragua (GON) "plan to resolve all outstanding property claims by 2011." Estrada's 20-minute presentation on the four-year plan suggested that the GON planned to resolve as many as 163 Embassy-registered claims each year. The Ambassador cautioned that the GON and USG consider a case resolved according to very different criteria. The Ambassador asked the GON to implement a fair and transparent process as it seeks to resolve those outstanding property claims, noting that cases dismissed without due process would remain in our registry.

AMBASSADOR CHALLENGES REVIEW OF APPROVED CLAIMS

13. (SBU) In particular, the Ambassador challenged the GON's decision to review cases accepted by previous administrations for ironclad evidence that both the claimant exercised domain over a property and that the GON had actually expropriated the property. The GON has offered a list of 18 cases summarily dismissed for failure to meet these criteria, the so-called "no ha lugar" decisions (Ref A). The Ambassador explained that during the Chamorro, Aleman, and Bolanos

administrations, claimants provided utility bills, property tax receipts, and/or inventory lists -- as opposed to certified title documents -- to demonstrate proof of ownership. He noted that many records were destroyed during the war, and that in many cases claimants fled their homes, leaving all of their possessions behind.

The Ambassador concluded that the Ortega administration was applying a higher threshold for proof of ownership and/or expropriation than the law required. Estrada replied that the Ortega administration "sought only to enforce the law," which he asserts requires that a claimant show proof of ownership with an original property title or cadastral records.

14. (SBU) The Ambassador also complained that granting a claimant only ten days to respond to a "no hay lugar" decision is simply unrealistic and that any person -- and particularly those who may reside abroad -- would need more time to assemble the additional information needed to defend a claim (Ref B). Estrada argued that Presidential Decree 52/1992 established the ten-day period for a claimant to appeal the GON's decision. [Note: Decree No. 52 allows a claimant ten days to appeal a settlement offer from the Office of Assessment and Indemnification. It is unclear how the GON interprets this law to apply to a claimant's right to appeal a "no hay lugar" decision. End note].

15. (SBU) The Ambassador explained that some claimants must go to local courts or a notary public to prove they had ownership of their property or assets, and these legal processes rarely take less than 10 days. He also noted that it normally takes more than 10 days for domestic mail delivery; for mail to reach a claimant in the United States would require much more time. To give a claimant only ten days to respond to a "no ha lugar" decision is simply unfair, the Ambassador concluded.

16. (SBU) The Ambassador asked Estrada to facilitate further discussion between the Embassy and the GON on this issue. He asked the GON to clarify the criteria by which claimants demonstrate proof of ownership and/or expropriation and the period during which they may appeal a "no ha lugar" dismissal. He asked the GON to publish this information on the Internet and in the local press alongside the list of claims it will review in 2008. Estrada replied that the GON will be fair and transparent throughout the process, but he emphasized that claimants will not enjoy an indefinite period to provide information about their cases.

ESTRADA PROMISES TO SHARE INFORMATION ON 2008 PRIORITY CLAIMS

17. (SBU) Throughout the meeting, the Ambassador pressed Estrada for more communication other than the monthly Working Group meeting, noting that once-monthly sessions are not sufficient to discuss and resolve claims. Estrada stated that his office will remain the only channel of communication between the Embassy and GON to curb corrupt practices that, he asserted, flourished under previous administrations. The Attorney General said that the Embassy Property Office and GON should use the monthly Working Group meeting to focus on analyzing Embassy-registered claims. Estrada alleged that some claimants received double compensation (receiving their property and indemnification bonds), while others colluded with their lawyers and former GON officials to overvalue their assets to obtain additional indemnification bonds (Ref B).

18. (SBU) In response to the Ambassador's pressure to ensure that the administrative process would be fair and transparent, the Attorney General said that he would publish a list of all the claims that the GON would work on in 2008 on the website of his office and in a local newspaper. Estrada noted that publishing the list of claims will provide claimants an opportunity to take the necessary steps to defend their rights. The Ambassador suggested that the Embassy could help the GON with U.S. citizen claims if we receive a copy of the list before its publication. The Ambassador explained that the Property Office is prepared to review claims with the GON and contact claimants to provide instructions on how to submit information the National Confiscations Review Commission claims is missing.

SIX MONTH REVIEW IN JANUARY/FEBRUARY 2008

¶9. (SBU) The Ambassador told Estrada that they should meet in January to assess the GON's progress in resolving Embassy registered claims during the 2007-2008 waiver year. Estrada agreed that this mid-year review is important and each side should "put their cards on the table" to avoid any surprises or misunderstandings. Estrada asked the Ambassador if the meeting could take place after mid-January since the GON would be busy "closing out" 2007.

COMMENT

¶10. (SBU) We will press GON officials to uphold Estrada's commitments to share more information on U.S. citizen claims and provide clarity about the criteria for acknowledging legitimate ownership and expropriation claims. We will also reiterate that the Embassy seeks to help the GON resolve Embassy registered claims -- but not without our full involvement in a fair and transparent process.

TRIVELLI